IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

Crl.MC.No. 1024 of 2007()

CC.4345/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER:

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1. SHERIN V.R., AGED 35 YEARS,
   S/O.RAVEENDRAN, VALLASSERIL HOUSE,
   PRAMOD LANE, SHANMUGHAPURAM, PACHALAM,
   ERNAKULAM VILLAGE.

2. MANI RAVEENDRAN, AGED YEARS,
   W/O.RAVEENDRAN, VALLASSERIL HOUSE,
   PRAMOD LANE, SHANMUGHAPURAM, PACHALAM,
   ERNAKULAM VILLAGE.

BY ADV. SRI.P.R.LESLIE STEPHEN
SMT.LILLY LESLIE

RESPONDENTS:

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1. DEEPA P.J., AGED 25 YEARS,
   D/O.JAYARAJAN, PUTHUVALSALATH,
   MUKKAM JETTY, PANAMPUKADU,
   VALLARPADOM P.O.,

2. STATE OF KERALA, REPRESENTED BY THE
   SUB INSPECTOR OF POLICE, E.T.NORTH
   POLICE STATION, ERNAKULAM, KOCHI-18.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1024 OF 2007

Dated this the 29th day of March, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.498A read with Sec.34 of the IPC. They are the husband and mother-in-law of the 1st respondent. Proceedings have been initiated on the basis of a complaint filed by the complainant. After due investigation, final report was filed by the police and cognizance has been taken.

2. The petitioners submit and the 1st respondent, who has entered appearance through counsel before this Court, concedes that the parties are willingly and voluntarily settled their disputes and the 1st respondent has compounded the offences allegedly committed by the petitioners. Inasmuch as they have decided to harmoniously separate and move for divorce, the petitioners and the 1st respondent submit that it is not necessary for the prosecution to continue any longer.

In view of the harmonious settlement of the disputes between the parties, continuance of the prosecution would be an unnecessary irritant in the relationship between the parties. They have already moved the Family Court to get the divorce effected, submit both counsel.

3. The learned counsel for the 1st respondent vouches for the fact that the parties are settled their disputes and that they have filed Annexure-A2 joint application under Sec.13B of the Hindu Marriage Act before the Family Court, Ernakulam. I am satisfied from the submissions made at the Bar and the averments made in the petition that the parties have settled their disputes amicably and that the 1st respondent has compounded the offences allegedly committed by the petitioners. If the same is legally acceptable, I am satisfied that the composition can be accepted and the proceedings can be brought to termination in these circumstances.

4. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submit that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of

justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be reckoned as a fetter on the powers of the Court under Sec.482 of the Cr.P.C.

5. I am satisfied that this is an eminently fit case where the composition can be accepted and the proceedings brought to termination invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386).

6. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.4345/05 pending before the Judicial Magistrate of the First Class-I, Ernakulam, against the petitioners is hereby quashed.

(R. BASANT, JUDGE)

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